

REMARKS

Claims 1-53 were pending in the present application and new claims 54-56 are added herein. Thus claims 1-56 are pending in the present application. Claims 2-6, 8-13, 16, 19-22, 24-26, 30-46, 49, 50 and 52 are withdrawn from consideration, subject to election of sub-species 5 for examination on the merits. Reconsideration of the present application in view of the above amendments and the following remarks is respectfully requested.

Claims 1 and 15 are objected to for informalities and have been corrected.

Claims 1, 7, 14, 15, 17, 18, 23, 27-29, 47, 48, 51 and 53 stand rejected under 35 U.S.C. §112, second paragraph as being allegedly indefinite. Although the basis for the rejection is respectfully questioned in the comments below, the claims have been amended to improve clarity.

The claims are rejected due primarily to an alleged lack of clarity. The Examiner admits that the claims should be corrected as to matters of form. A rejection under section 112, second paragraph requires that A) claims set forth subject matter applicants regards as the invention; and B) claims particularly point out and distinctly claim the subject matter of the invention. Since A) relies on subjective interpretation, B) necessarily forms the objective basis for a rejection under this paragraph. Item B) requires an inquiry into the definiteness of the claim, e.g. whether the scope of the claim would be clear to a person of ordinary skill in the art (MPEP 2171).

With regard to claim 1, as originally submitted, reference was made in line 4 thereof to a brake pedal and operation thereof. It is submitted that one of ordinary skill in the art would have understood the initial antecedent reference to a brake pedal. Thus a prima facie case of anticipation has not been established with regard to claim 1 and an objection would have been proper. Claim 1 has been amended however to correct the matter of form.

With regard to claims 14, 23, 28, and 34 as originally submitted, reference was made in claim 1 to a flow amount amplifying unit. It is submitted that one of ordinary skill in the art

would have understood the initial antecedent reference to a flow amount amplifying unit. Thus a prima facie case of anticipation has not been established with regard to claims 14, 23, 28, and 34 and an objection would have been proper. Claims 14, 23, 28, and 34 have been amended however to correct the matters of form.

With regard to claims 17, 18 and 27 as originally submitted, reference was made, for example, in claim 15 to a flow amount amplifying unit. It is submitted that one of ordinary skill in the art would have understood the initial antecedent reference to a flow amount amplifying unit amounts to the flow amount amplification changing unit. Thus a prima facie case of anticipation has not been established with regard to claims 17, 18 and 27 and an objection would have been proper. Claims 17, 18 and 27 have been amended however to correct the matters of form.

Applicants submit that since the claims discussed above in connection with the rejection would have been clear to one of ordinary skill in the art as written, an objection would have been a more appropriate means to address clarity issues. Further no evidence was provided supporting that one of ordinary skill in the art would have found the claims to be unclear. Thus the rejection of claims 1, 7, 14, 15, 17, 18, 23, 27-29, 47, 48, 51 and 53 is improper under 35 U.S.C. §112 second paragraph.

Without acknowledging the propriety of the rejection, applicants have amended claims 1, 7, 14, 15, 17, 18, 23, 27-29, 47, 48, 51 and 53 to improve the clarity thereof as to matters of form only to address the Examiner's concerns relating to clarity and not for reasons related to patentability. Thus the scope of claims 1, 7, 14, 15, 17, 18, 23, 27-29, 47, 48, 51 and 53, as to the corrected matters of form, has not been narrowed within the meaning defined in Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 535 U.S. 722 (2002).

Claims 1, 7, 14, 15, 23, 27, 28, 51, and 53 stand rejected under 35 U.S.C. 102 (b) as being allegedly anticipated by Hashida U. S. Patent No. 5,911,484. The rejection is respectfully traversed.

It should first be noted that Hashida discloses a hydraulic booster - a combination of a pump 5 and a fluid supply amplifier 10 - actuated only during traction control or automatic brake control as described, for example, at column 4, lines 7 to 18. During normal braking, valve 6 is closed and valves 7 and 9 are opened so that both pump 5 and fluid supply amplifier 10 of the hydraulic booster are not activated and, during antilock braking control, fluid supply amplifier 10 is not activated, though the pump 5 is operated to return brake fluid in reservoir 4 to a line extending from the master cylinder to wheel brake fluid pressure control valve 3 as described for example, at column 4, line 61 to column 5, line 5.

In stark contrast however, in the claimed invention as defined, for example, in amended claim 1, the pump is operated, always when the brake pedal is engaged and during normal braking. Further, the first pipeline is always selected for a given period immediately after the brake pedal is engaged.

Further, according to Hashida, reservoir 4 and valve 6, which the Examiner points out as amounting to the fluid pressure regulating unit, are not the fluid pressure regulating unit as defined, for example, in claim 1. The fluid pressure regulating unit referred to as valve 17 in Fig. 1 or Fig. 19 of present application, holds a pressure difference between the first brake fluid pressure, e.g. on the master cylinder side, and the second brake fluid pressure, e.g. on the wheel cylinder side, to a rated value which is variable according to operating conditions of the brake pedal. Hashida notably fails to disclose the fluid pressure regulating unit as claimed, since

valves 7 and 9 of Hashida are closed when fluid supply amplifier 10 is activated during traction control, e.g. when the brake pedal is not engaged. Valves 7 and 9 further do not hold the pressure difference between the first brake fluid pressure and the second brake fluid pressure to the rated value variable according to an operating condition of the brake pedal as claimed. It should be noted for example, that the rated value of the pressure difference when the brake pedal is stepped on quickly is different from that when the brake pedal is stepped on slowly.

Thus it should be noted that, for at least the reasons as set forth above, the Hashida fails to disclose all the elements of the invention with regard to claim 1, and thus a prima facie case of anticipation has not properly been established. It is respectfully requested that the rejection of claim 1 be reconsidered and withdrawn.

Claims, 7, 14, 15, 23, 27, 28, 51, and 53 by virtue of depending from claim 1, are believed allowable for at least the reasons as set forth herein above with regard to claim 1, and thus should be reconsidered and withdrawn.

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Thus it should be noted that, for at least the reasons as set forth above, the Hashida fails to disclose all the elements of the invention with regard to claim 1, and thus a prima facie case of anticipation has not properly been established. It is respectfully requested that the rejection of claim 1 be reconsidered and withdrawn.

Claims, 7, 14, 15, 23, 27, 28, 51, and 53 by virtue of depending from claim 1, are believed allowable for at least the reasons as set forth herein above with regard to claim 1, and thus should be reconsidered and withdrawn.

Applicants further note that since claim 1 is allowable, claims 2-6, 8-13, 16, 19-22, 24-26, 30-46, 49, 50 and 52 withdrawn from examination are now considered to be in condition for allowance.

New claims 54-56, by virtue of depending from claim 1, are believed allowable for at least the reasons as set forth herein above with regard to claim 1. Favorable consideration is respectfully requested.

Serial No. 10/059,032

In view of the foregoing, the applicants respectfully submit that this application is in condition for allowance and a timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,



Robert L. Scott, II
Reg. No. 43,102

Posz & Bethards, PLC
11250 Roger Bacon Drive, Suite 10
Reston, VA 20190
Phone 703-707-9110
Fax 703-707-9112
Customer No. 23400